

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS
1550 MAIN STREET
SPRINGFIELD, MA 01103

NOTICE CONCERNING WAIVER OF JUDICIAL
DISQUALIFICATION

FROM: Bethaney Healy, Clerk

Date: May 31, 2005

TO: C. Jeffrey Kinder, Esq.
Fierst, Pucci & Kinder
64 Gothic Street
Northampton, MA 01060

Thomas J. O'Connor, Jr.
U.S. Attorney's Office
1550 Main Street, Room 310
Springfield, MA 01103

RE: United States of America v. Carlos Marrero, Criminal No. 05-30017-MAP

Canon 3D of the Code of Conduct provides (with exceptions not pertinent to this case) that when a judge is disqualified in a proceeding because "the judge's impartiality might reasonably be questioned," the judge may participate in the proceeding if all the parties and lawyers, after notice of the basis for the disqualification, agree in writing to waive the disqualification under a procedure independent of the judge's participation.

Unless a waiver is obtained from all parties and all counsel, Magistrate Judge Kenneth P. Neiman, to whom the matter has been referred for purposes of a scheduling conference and case management, intends to disqualify himself in this proceeding because C. Jeffrey Kinder, an attorney for the defendants and counter-claimants, is a partner in a law firm which has a lease agreement with and rents office space in Northampton, Massachusetts, owned by Magistrate Judge Neiman and Frederick U. Feirst (another partner in the firm).

If you and your clients wish to waive the Magistrate Judge's disqualification, letters to that effect from you and your clients must be sent to me within seven days of the date of this Notice, i.e., by June 7, 2005. The letters should not be sent to Magistrate Judge Neiman and copies should not be sent to other counsel. If all parties and all counsel submit such letters, this Notice and all responses will be made part of the record, as required by Canon 3D, and Magistrate Judge Neiman will continue participation in the proceeding. If a waiver is not received from all parties and all counsel, any responses will be kept under seal by the clerk and not shown to Magistrate Judge Neiman, nor will Magistrate Judge Neiman be informed of the identity of any party or lawyer who declined to waive the disqualification.

FIERST, PUCCI & KINDER LLP
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FREDERICK U. FIERST*
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C. JEFFREY KINDER**
JONATHAN J. KANE***

WALTER C. SOMOL
J. LIZETTE RICHARDS****

June 3, 2005

Bethaney Healy, Clerk
United States District Court
1550 Main Street
Springfield, MA 01103

Re: U.S. v. Marrerro, 05-CR-30017-MAP


Dear Bethaney:

I am writing in response to the Notice Concerning Waiver of Judicial Disqualification in the above-captioned case dated May 31, 2005. Please be advised that Carlos Marrero waives the disqualification referred to therein.

Please call me at (413) 584-8067 if you have any questions.

FIERST, PUCCI & KINDER LLP

By:


C. Jeffrey Kinder

CJK/hs

* ALSO ADMITTED IN NEW YORK
** ALSO ADMITTED IN COLORADO
*** ALSO ADMITTED IN NEW HAMPSHIRE AND CONNECTICUT
****ALSO ADMITTED IN NEW HAMPSHIRE



U.S. Department of Justice

Michael J. Sullivan
United States Attorney
District of Massachusetts

Main Reception: (413) 785-0235
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Federal Building and Courthouse
1550 Main Street, Room 310
Springfield, Massachusetts 01103

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IN CLERK'S OFFICE
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U.S. DISTRICT COURT
DISTRICT OF MASS.

June 3, 2005

Clerk
United States District Court
for the District of Massachusetts
Federal Building & Courthouse
1550 Main Street
Springfield, MA 01103

Re: United States v. Carlos Marrero, a/k/a "Brooklyn,"
Criminal No. 05-30017-MAP.

Dear Clerk:

The United States Attorney's Office for the District of Massachusetts hereby waives Magistrate Judge Neiman's disqualification in the above-referenced matter referenced in your letter of May 31, 2005.

Very truly yours,

MICHAEL J. SULLIVAN
United States Attorney

By:


Thomas J. O'Connor, Jr.
Assistant U.S. Attorney